

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOUGLAS V. JACKSON,) Case No.: 1:24-cv-0143 JLT HBK (HC)
Petitioner,)
v.) ORDER ADOPTING THE FINDINGS AND
EDWARD BORLA, Warden,) RECOMMENDATIONS, DISMISSING
Respondent.) PETITION FOR WRIT OF HABEAS CORPUS,
) AND DIRECTING CLERK OF COURT TO
) CLOSE CASE
)
) (Docs. 1, 7)
)

Douglas V. Jackson, a state prisoner, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, asserting the Clerk for the Ninth Circuit did not timely notify Petitioner that his petition for certiorari to the United States Supreme Court was denied. (*See generally* Doc. 1.) The assigned magistrate judge conducted a preliminary review under Rule 4 of the Rules Governing Section 2254 Cases and found Petitioner failed to state a cognizable habeas claim. (Doc. 7 at 2-3.) Therefore, the magistrate judge recommended the petition be dismissed. (*Id.* at 3, 4.)

The Court served the Findings and Recommendations on Petitioner and notified him any objections were due within 14 days. (Doc. 7 at 4.) The Court advised him that the “failure to file objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Petitioner did not file objections, and the time to do so has passed.

According to 28 U.S.C. § 636(b)(1)(C), this Court performed a *de novo* review of this

1 case. Having carefully reviewed the matter, the Court concludes the Findings and
2 Recommendations are supported by the record and proper analysis.

3 A petitioner seeking a writ of habeas corpus has no absolute entitlement to appeal a
4 district court's denial of his petition, and an appeal is only allowed in certain circumstances.
5 *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 2253. If a court denies a habeas
6 petition on the merits, the court may only issue a certificate of appealability “if jurists of reason
7 could disagree with the district court’s resolution of [the petitioner’s] constitutional claims or that
8 jurists could conclude the issues presented are adequate to deserve encouragement to proceed
9 further.” *Miller-El*, 537 U.S. at 327; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). While the
10 petitioner is not required to prove the merits of his case, he must demonstrate “something more
11 than the absence of frivolity or the existence of mere good faith on his . . . part.” *Miller-El*, 537
12 U.S. at 338. The Court finds that reasonable jurists would not find the Court’s determination that
13 the petition should be denied debatable or wrong, or that the issues presented are deserving of
14 encouragement to proceed further. Petitioner has not made the required substantial showing of the
15 denial of a constitutional right. Therefore, the Court declines to issue a certificate of appealability.

16 Based upon the foregoing, the Court **ORDERS**:

- 17 1. The Findings and Recommendations issued on February 21, 2024 (Doc. 7) are
18 **ADOPTED** in full.
- 19 2. The petition for writ of habeas corpus (Doc. 1) is **DISMISSED**.
- 20 3. The Court declines to issue a certificate of appealability.
- 21 4. The Clerk of Court is to terminate any pending deadlines and **CLOSE** the case.

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23 IT IS SO ORDERED.

24 Dated: March 19, 2024


UNITED STATES DISTRICT JUDGE

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